FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2381 OF 2006

Office notes, office Memoranda of appearances, Court's orders or directions & Registrar's orders.	:	Court's or Judge's Orders

Mrs. Thorat for petitioner

Ms. M.M. Deshmukh, APP

Mr. Arvind Ramprashad Mehra - respondent in person present.

CORAM: SMT. RANJANA DESAI, J.
DATED:-7/12/2006

P.C.:-

In this petition the petitioner has challenged the order issuing process under Section 500 of the Indian Penal Code ("I.P.C." for short) against her, passed by the Metropolitant Magistrate's 40th Court, Esplanade, Mumbai, in Criminal Case No. 62/SW/2004 and order dated 5/9/2006 passed by the Additional Sessions Judge, Brihan Mumbai, dismissing the revision application filed by the petitioner challenging the said order. The complaint is filed by respondent 1 who is the

brother of the petitioner.

2. Today in the court the petitioner as well as the 1st respondent are present. Petitioner's counsel is also present. Respondent 1 is appearing in person. I have heard the learned counsel for the petitioner, respondent 1, as well as the learned APP.

3. My attention is drawn by the learned counsel for the petitioner to the complaint. The defamatory statements appear to have been made by the petitioner in the affidavit filed by her on 17/2/2004 in the Testamentary Petition No. 759 of 2003 pending in this court. The defamatory statements are set out in paragraphs 24 and 27 of the complaint. They are as under:

"24. I say that the Respondent No. 1 is in dire financial need and was involved in criminal case at London". (Respondent No. 1 in the said petition refers to me, the

Complainant)."

"27. I say that Respondent No. 1 had been staying with a third lady named Ms. Geeta after the demise of my father..... I say that I am not aware whether the Respondent No. 1 has performed the third marriage but I understand that Respondent No. 1 is staying with the said Ms. Geeta under the same roof".

4. Offence under Section 500 of the I.P.C. can be compounded by the person who is defamed.

5. The learned counsel for the petitioner states that the petitioner wants to withdraw the above statements and she wants to tender unconditional apology for having made such statements in the affidavit. In order to ascertain whether this is correct, I have interviewed the petitioner in the court. The petitioner has clearly stated that she wants to withdraw the above statements and that she wants to tender unconditional apology to the

1st respondent for having made the above statements in her affidavit. Accordingly her statement is accepted by this court. The above statements made in the affidavit of the petitioner shall stand withdrawn. Unconditional apology tendered by the petitioner for having made the above statements is accepted by this court.

6. In view of the above, the 1st respondent who is appearing-in-person has stated that offence under Section 500 of the I.P.C., which has been alleged in the complaint may be compounded. He has stated that he has accepted the unconditional apology tendered by the petitioner. As per Section 320 of the Criminal Procedure Code offence under Section 500 of the I.P.C. can be compounded by the 1st respondent, who is defamed.

7. In view of the above, the offence alleged in complaint in case No. 158/M/2004 pending in the Court of Metropolitan Magistrate’s 28th Court at Esplanade, Mumbai, under

Section 500 of the I.P.C. stands compounded.

8. Office to communicate this order to the trial court forthwith.

9. Petition disposed of.

JUDGE.